

CHAPTER I

Introduction

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Academic freedom may seem like it has never been so intensely challenged. The concept appears at times as if it is ill-loved, ill-understood, and ill-protected. Academic freedom is not only violated but is also increasingly contested. There is no doubt that considerable pressures have come to bear on universities that vie to reshape their function. In that respect, pressures on academic freedom must also be seen as part of a broader crisis of universities. Over the past decade alone, the rise and ubiquity of digital media; profound changes in global academic flows; rankings; competition over students; and social networks have all contributed to a profound transformation not only of universities but also of discourses about universities.

At the same time, the discourse about academic freedom has a life of its own. The sense of academic freedom being “under siege” may be exaggerated for political ends. Moreover, why and how academic freedom is under threat is not always clearly understood. The range of threats against academic freedom is typically broader and diverse than various sectoral or national approaches suggest. Understanding this is a first step to exploring how academic freedom’s importance might be reassessed in more complex and nuanced terms than has sometimes been the case.

The inspiration for this book came at a time when the authors—the codirectors of McGill University’s Centre for Human Rights and Legal Pluralism—were made to be particularly alert to the precariousness of academic freedom. The Centre for Human Rights and Legal Pluralism, which hosted a series of events that eventually gave rise to this book, has long been

involved in the Scholars at Risk program, providing refuge to a number of academics no longer capable of engaging in their work in their universities and sometimes fleeing their country. We are mindful of the extraordinary risks that academics with independent views can face. At the same time, the Centre has over the years hosted events involving contentious issues that led it to experience first-hand the sensitivity of questions of academic freedom.

It can seem at times as if academic freedom is a topic about which everything has been said already and yet its contours remain blurry and, perhaps more importantly, contested. It has certainly spun a considerable literature of a historical, political scientific, philosophical, moral, sociological, and legal nature.¹ Rather than a work of normative or political theory, this book has sought to engage in an analysis of the diversity of threats to academic freedom as they emerge and in their context. The point is of course not to be exhaustive but to think critically about a number of emblematic situations or incidents where claims about academic freedom being curtailed have precipitated ongoing efforts to refine it. The intuition is that academic freedom lives and is sustained through a variety of practices and that only by erring fairly close to those practices can one discern its contours.

In other words, the idea is to produce a better understanding of academic freedom, paradoxically, through a careful understanding of challenges to it. Instead of the exercise of endless theoretical refinement of definitions, it may be that it is when we see academic freedom being violated, threatened, or reneged upon that we produce better conceptualizations of its core meaning. But we also want to caution against a vision of academic freedom as being merely and constantly attacked. We will also use the term “challenged” here to reflect the fact that some violations of academic freedom are also quite explicitly attempts to contest and shift its definition and are, therefore, not always best understood as violations. Moreover, in addition to the negative dimensions of various assaults on academic freedom, it bears emphasizing that it is also, in perhaps less spectacular ways, constantly upheld, supported, and promoted.

1 One book published in 2000 and devoted only to surveying the field of existing writings already gives an indication of how relatively vast that literature was at the time; see Stephen H. Aby and James Kuhn, *Academic Freedom: A Guide to the Literature* (New York: Bloomsbury, 2000). The literature has arguably grown significantly since then.

THE PRESENT MOMENT

Although the book has no strict temporal framework, it attempts to capture the particular moment within which it was conceived. The point is not that threats to academic freedom are anything new. Indeed, much can be gained from examining some of the current instances under the light of previous episodes, for example, the Cold War. In fact, several of the chapters go back in time to understand some of the origins of academic freedom and the legacies we have to reckon with. One is reminded that academic freedom is, as a specific institutional principle, not that old and that its protection was long legally uncertain and ad hoc. Many universities were in fact not historically devoted to the unadulterated pursuit of free inquiry but, more often than not, dedicated to shaping a dominant orthodoxy and training students in its mannerisms. It is generally the rise of modern universities in the nineteenth century, notably the Humboldtian model of higher education, that is credited with entrenching the principle in the West.

Even then, however, the rise of academic freedom as a defining principle of scholarly pursuit was a slow one. It would also be wrong to think that the ushering in of modernity dealt a death blow to obscurantist or authoritarian forces dedicated to suppressing academic freedom. Protections of academic freedom in some countries or universities are of recent vintage and some are clearly wanting. While there has been considerable improvement in the degree of academic freedom enjoyed in previously authoritarian systems,² academic freedom is in essence a reversible progress. Globally, it has witnessed some notable “ups” and “downs” (with arguably an identifiable decline since the 2010s).³ It is thus important to pay attention to the notion’s historicity if only to understand it as correlated with broader developments in society.⁴

The changing fortunes of academic freedom are related to general social developments, but they are not reducible to them and must be seen as also significantly predicated on changes within the confines of the university.

2 See, e.g., Peter D. Eckel, *Governing Universities in Post-Soviet Countries: From a Common Start, 1991–2021* (Cambridge: Cambridge University Press, 2023); Maia Chankseliani, *What Happened to the Soviet University?* (Oxford: Oxford University Press, 2022).

3 Lars Lott, “Academic Freedom Growth and Decline Episodes,” *Higher Education* (December 18, 2023).

4 Niclas Berggren and Christian Bjørnskov, “Political Institutions and Academic Freedom: Evidence from across the World,” *Public Choice* 190 (2022): 205–228.

Throughout the twentieth century, at least some academics moved out of the ivory tower and into the political fray. As universities' power of influence over "young minds" and the connection between theoretical ideas and political praxis became clearer, questions have been asked about the political power that universities inevitably wield. Note the irony that in continuing such trends, academics have heeded the call for universities to be "relevant" and produce research that has a "high impact," even as outside actors may not always approve of the results. Nonetheless, it is fair to say that the intensity of questions about academic freedom has reached a fever pitch as a result of a combination of unusual forces.

The editors sensed, as others have,⁵ that there is something in the current moment, and the particular maelstrom of challenges it triggers, that is at least specific if not unique. In this collection, the emphasis is certainly on the post-Cold War era but more specifically a postglobalization era inaugurated by 9/11 and marked by anxieties about climate change, an unanticipated return of populism, increased political polarizations, the COVID pandemic, the fear of radicalization, a global immigration crisis, the ubiquity of surveillance technology, or the rise of artificial intelligence. To these broad phenomena must be added a range of challenges specific to universities and institutions of higher learning, including their continued global attractiveness for students but also budgetary crises, politicization, "neoliberalization," "wokeness," remote learning, and so on. It is in the crucible of these different forces that academic freedom is being not only attacked or entrenched but also, perhaps most significantly, transformed.

BETWEEN UNIVERSALISM AND FRAGMENTATION

Like many of today's debates, the question of academic freedom has become a global one, as a growing literature testifies.⁶ The very notion of academic

5 Henry Reichman, *The Future of Academic Freedom* (Baltimore: Johns Hopkins University Press, 2019).

6 Risa L. Lieberwitz, "Higher Education and Academic Freedom: The Challenges of International and Comparative Research," *Bilgi Ekonomisi ve Yönetimi Dergisi* 3 (2008): 15–24; Niclas Berggren and Christian Bjørnskov, "Political Institutions and Academic Freedom: Evidence from across the World," IFN Working Paper No. 1388, Research Institute of Industrial Economics; Philip G. Altbach, "Academic Freedom: International Realities and Challenges," in *Tradition and Transition* (Leiden: Brill, 2007), 49–66; Simon Marginson, "Academic Freedom: A Global Comparative Approach," *Frontiers of Education in China* 9 (2014): 24–41.

freedom is the product of the academic circulation of ideas and certain conceptions of universities that have not always been evident but have gradually, through imposition, replication, or influence, spread across the world. One thing that testifies to that universalism is the actual historical spread of ideas of academic freedom from Germany to France, from Europe to the Far East, from metropolitan capitals to colonial possessions, and so on. One should not underestimate the degree to which academic freedom is a function of the slow effect of academic socialization and underpinned, ultimately, by the particular mores of discourse and respect of a transnational *république des lettres*. As Sophie Bisping emphasizes in her chapter in this collection, even the most local recent flareups around the question of academic freedom often have deep roots in a global question about the limits of academic speech.⁷

The debate itself, however, has tended to arise in quite national siloes, a reminder that universities have often been deeply involved in state-building projects and often coincide with particular national approaches to higher education. A considerable part of the discourse on academic freedom long emerged principally from the scholarly anglosphere or was devoted to specific countries only,⁸ with relatively few comparative studies,⁹ notably includ-

7 Bisping, "Academic Freedom and Social Justice in Quebec," this volume.

8 Michiel Horn, *Academic Freedom in Canada: A History* (Toronto: University of Toronto Press, 1998); Carolyn Evans and Adrienne Stone, *Open Minds: Academic Freedom and Freedom of Speech of Australia* (Melbourne: Black, 2021); Olivier Beaud, *Le savoir en danger: menaces sur la liberté académique* (Paris: Presses Universitaires de France, 2021); Terhi Nokkala and Agneta Bladh, "Institutional Autonomy and Academic Freedom in the Nordic Context: Similarities and Differences," *Higher Education Policy* 27 (2014): 1–21; Ernest Van den Haag, "Academic Freedom in the United States," *Law & Contemporary Problems* 28 (1963): 515; Arthur Schlesinger, "Academic Freedom: The Development of Academic Freedom in the United States," *Journal of Higher Education* 27 (June 1956): 338–350.

9 Margrit Seckelmann et al., eds., *Academic Freedom under Pressure? A Comparative Perspective* (Cham: Springer, 2021); Nokkala and Bladh, "Institutional Autonomy and Academic Freedom in the Nordic Context"; Valentina Moscon, "Academic Freedom, Copyright, and Access to Scholarly Works: A Comparative Perspective," in *Balancing Copyright Law in the Digital Age*, ed. Roberto Caso and Federica Giovanella (Berlin: Springer, 2015), 99–135; Ann Martin-Sardesai et al., "Government Research Evaluations and Academic Freedom: A UK and Australian Comparison," *Higher Education Research & Development* 36 (2017): 372–385; Marginson, "Academic Freedom"; Terence Karran, "Academic Freedom in Europe: A Preliminary Comparative Analysis," *Higher Education Policy* 20 (2007): 289–313; Ruchi Saini, "A Comparative Analysis of Academic Freedom within Higher Education Institutions (HEIs) in India and the USA," *Journal of Comparative and International Higher Education* 12 (2020): 37–44; Pio Ciprotti, "Comparative Insights in Matters of Academic Freedom," *Persona & Derecho* 6 (1979): 411; Rosamunde F. J. Becker, "Academic Freedom in England and Germany: A Comparative Perspective," *World Studies in Education* 7 (2006): 5–24.

ing the Global South.¹⁰ This can give the dominant debate a strangely provincial and hegemonic outlook, even as a variety of global and transnational efforts are underway to protect academic freedom.

Nonetheless, for all the global spread of ideas about academic freedom, it remains crucial to understand their genesis and the challenges they raise against the background of local, national, and regional trajectories. Academic freedom is widely employed as a term, but it does point to a variety of cultural, social, and legal realities often closely connected to the particular histories of universities.¹¹ For example, in his chapter in this collection, Liviu Mattei emphasizes the specificity of the crisis of academic freedom in Europe as shown in the plight of Central European University or Turkish universities.¹² Zhidong Hao, in turn, highlights the extent to which academic freedom has deep roots in China even as the notion has Westernized and even as Chinese regimes' commitment to it has fluctuated.¹³ Kwadwo Appiagyei-Atua insists on the extent to which Africa has long had its own tradition of academic inquiry until the slave trade and colonization.¹⁴

IDENTIFYING KEY CHALLENGES

In addition to this geographic fragmentation of attention, the diversity of focus is reinforced by the fact that different observers are more sensitive to some functional aspects of the threat to academic freedom than others. Some commentators have been concerned with threats from outside universities, while others have underlined the importance of threats from within; some are concerned with public threats, while others emphasize the importance of private ones; and some worry about academic freedom as it impacts teaching, while others are concerned about its impact on research. Part of the challenge of promoting academic freedom, it turns out, is that it requires

10 Zhidong Hao and Peter Zabielskis, eds., *Academic Freedom under Siege: Higher Education in East Asia, the U.S. and Australia* (Cham: Springer Nature, 2020).

11 Philip G. Altbach, "Academic Freedom: International Challenges and African Realities," *Journal of Higher Education in Africa / Revue de l'enseignement Supérieur En Afrique* 3 (2005): 17–34.

12 Matei, "The Crisis of Academic Freedom at the Beginning of the 21st Century: Europe in a Plural World," this volume.

13 Hao, "How Structure, Culture, and the Individual Together Constrain and Enable Academic Freedom in China: A Historical Perspective," this volume.

14 Appiagyei-Atua, "Coloniality and Diversity of Academic Freedom: The African Context," this volume.

academic institutions to simultaneously deal with quite different attempts to circumscribe it. As editors, we gathered a range of authors to think about three quite different challenges to academic freedom that mix the old and the new, not always in predictable or even legible ways.

First, a continued pattern of interferences by states, both traditional authoritarian and new populists or nationalists, along with monitoring of universities, requirements of advance notification of events including international participants, discriminatory denials of visas, and invasive radicalization prevention programs. In other words, even as other concerns may dominate the Western academic agenda, old-style, top-down interference by states has hardly disappeared in our era and is in fact very much alive, even as it may take new forms. This type of interference sometimes translates into physical and psychological threats to academics, but also attempts to control the curriculum and political attacks on universities. It is based on the broader suppression of dissent, the fear that universities will become a hotbed of contestation, and draws on anxieties, real or pretextual, about immigration, terrorism, foreign interference, or loosely labeled “extremism,” for example.

Attempts to control university research by governments can manifest themselves in subtle and less subtle ways, underscoring the dependency of many universities on funding by governments. The state often uses public coffers as a lever to exercise control over academic institutions, sometimes threatening or effectively defunding entire departments that are deemed inimical. As Andrey Shcherbovich, himself the victim of an academic purge in Russia, points out in his chapter for this collection, states will not hesitate to dissolve entire departments that they see as inimical to their agendas.¹⁵ Universities are sometimes enlisted to address problems—illegal immigration or radicalization come to mind—that are far broader and that they are ill-equipped to deal with without endangering their core mission.¹⁶

15 Shcherbovich, “Academic Freedoms in Modern Russia: ‘Dawn’ and ‘Dusk’ of the Higher School of Economics,” this volume.

16 Joanna Gilmore, “Teaching Terrorism: The Impact of the Counter-Terrorism and Security Act 2015 on Academic Freedom,” *Law Teacher* 51 (2017): 515–524; Tara McCormack, “Academic Freedom in an Age of Terror?” in *Why Academic Freedom Matters: A Response to Current Challenges*, ed. Cheryl Hudson and Joanna Williams (Essex: Civitas, 2016), 146; Emily Danvers, “Prevent/ing Critical Thinking? The Pedagogical Impacts of Prevent in UK Higher Education,” *Teaching in Higher Education* 28 (2023): 1264–1279.

Even mere pressures to ensure that universities “serve” society or seemingly innocuous measures such as student evaluation can be deployed to stifle free research and superimpose demands on scholars that divert them from the pursuit of knowledge for knowledge’s sake or at least according to their own agenda. To the extent that these demands (for example, to express only “correct” or “patriotic” views) are internalized by scholars, they may involve a broad subjugation of academic agendas to political priorities. In conflict situations, the life and security of academics and the ability of universities to function may come under threat and attack by both state and nonstate armed groups. Academic freedom can fizzle not so much through direct attacks but through the chilling consequences of a climate of fear in which one never really knows if one is crossing the line.

Moreover, state legislation has been instrumentalized to restrict the institutional autonomy of universities and to potentially label individual academics and academic institutions as threats to national security. It targets criticism of governments but also sensitive topics such as occupied or contested areas. It has taken an increasingly high-tech form with the rise of the surveillance state, notably through the monitoring of academics on social media. Crucially, it has come from both the political right and the political left. This pattern of interference manifests itself in transnational ways too, as when foreign students are enlisted by their state of nationality against the host institution and country.¹⁷ In their chapter, for example, Teng Biao and Catherine Malanga suggest that there is a deep connection between the suppression of academic freedom in China and abroad through a variety of techniques.¹⁸

Second, challenges to the universities and the professorate have begun to manifest themselves from within the classroom as a result of demands by students for content and pedagogy more reflective of society’s diversity. The significance of academic freedom has been problematized in light of efforts to decolonize universities; fight antisemitism, Islamophobia, and racism;

17 Sophie McNeill, *They Don’t Understand the Fear We Have: How China’s Long Reach of Repression Undermines Academic Freedom at Australia’s Universities* (New York: Human Rights Watch, 2021); Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations of the Committee on Foreign Affairs House of Representatives, *Is Academic Freedom Threatened by China’s Influence on U.S. Universities?* (CreateSpace, 2015).

18 Biao and Malanga, “China’s Rising Threats to Global Academic Freedom: Spectrum, Impacts, and Response,” this volume.

challenge the suppression of indigenous voices; as well as demand sensitivity in the treatment of controversial topics. The fear is sometimes that “safe spaces” and “freedom *from* speech” will hamper academic freedom, but it is worth noticing that such fears can themselves be magnified or unjustly portray demands for sensitivity to justify further curtailments of academic speech.¹⁹

Conservative groups have also been active in seeking to control what is said in the classroom and at events, often in defiance of the focus on diversity. It is sometimes argued by conservatives that the problem of academic freedom has been exactly reversed: the problem is not that unorthodox views in the university are being punished from outside, but that a stifling academic climate of conformism has outsiders insist on far greater diversity.²⁰ Ironically, the idea of academic debate having to tiptoe around the fragilities of the “vulnerable student” is a product of late modern developments in academia itself, and notably the idea that all knowledge is power and so both relative and potentially violent, so that academia should be constantly trying to minimize the harm it causes through knowledge.²¹ Yet concerns about universities becoming “cuddled” sites of dogmatic political correctness often profoundly ignore the day-to-day reality of campus life. Ill-thought-out measures to “protect” academic freedom can be inspired by agendas that in reality seek to curtail it, as Jean-François Gaudreault-DesBiens hints in his chapter.²²

The politicization of campuses is not new, but, in a context of increased polarization, it may lead to self-censorship, cancelation of controversial events, and monitoring by political groups seeking to discredit instructors, raising concerns that certain views will be considered taboo. The digitalization of the classroom and the role of social media have contributed to breaking down the walls of the university in ways that render it much more open, but also more vulnerable to tensions within society. Some universities have also long been affiliated with particular religious denominations rais-

19 John Palfrey, *Safe Spaces, Brave Spaces: Diversity and Free Expression in Education* (Cambridge: MIT Press, 2017).

20 Joanna Williams, *Academic Freedom in an Age of Conformity: Confronting the Fear of Knowledge* (Cham: Springer, 2016).

21 Stuart Waiton, “Examining the Idea of the ‘Vulnerable Student’ to Assess the Implications for Academic Freedom,” *Societies* 11 (September 2021): 88.

22 Gaudreault-DesBiens, “The Political Cosmetology of Academic Freedom,” this volume.

ing concerns about the ability to discuss certain controversial topics,²³ but the problem now seems to affect a much broader range of institutions. As Isaac Kamola puts in his chapter for this collection, “dark money” has influenced the agenda of several state legislatures in the United States, banning the teaching of critical race theory or other “divisive concepts,” notably after the Black Lives Matter movement.²⁴

Third, a range of more diffuse forces have arguably constrained academic freedom. These include the continued effects of corporatization of universities, private funding, and employment precarity in North America and beyond. Austerity measures amidst budget crises, combined with global rankings competition and the need to attract international students and onerous research evaluation requirements, generate considerable pressure for research to align with institutional expectations of deliverables as well as corporate sponsors’ priorities. The turn to universities themselves to more managerial models, as emphasized by Chavan Kissoon and Terence Karran in their chapter in this collection, has led to a technology creep in the UK education system that can reduce academics’ autonomy and erode academic freedom.²⁵

Donor threats to pull out of funding initiatives if certain academics are not removed or events canceled point to the long-term dynamics of fundraising and for-profit research in a context where the increasingly corporatized culture of higher education institutions can make them ill-placed to mount a vigorous defense of academic freedom. As Hani Morgan shows in his chapter in this collection, even something as banal as industry funding of research can lead to limitations in publication and, by ricochet, have effects on research design, notably as a result of the threat of lawsuits.²⁶ Kristen Lyons in her chapter also warns of the risks associated with the alignment of universities with the corporate sector, especially when it comes to the mining

23 James Jeffrey Tillman, *Academic Freedom in Church-Related Colleges and Universities: A Theological and Educational Analysis* (PhD dissertation, Baylor University, 1991); Douglas A. Knight, “Academic Freedom and the Plight of German Theological Studies,” *Religion* 32 (April 2002): 107–112.

24 Kamola, “Academic Freedom and Dark Money Donors: The Cases of Wisconsin, North Carolina, and Florida,” this volume.

25 Kissoon and Karran, “Academic Freedom: Swimming against the Technological Tide,” this volume.

26 Morgan, “Restricting Academic Freedom at Universities: How Corporations Contribute to the Problem,” this volume.

and fossil fuel industries, and the attendant effect on research agendas and the curriculum in terms of meaningfully responding to the climate crisis.²⁷

This raises questions about the extent to which academic research agendas are being alternatively hindered or coopted by special private interests and what can be done to better insulate the university from the resulting pressures. The mere precarization of academic work, although it may not be primarily targeted at curtailing academic freedom, can easily have that effect given how it deprives junior scholars of the protections of tenure. Finally, new technologies are not always exactly helping either, in a context in which the links that bind academics to each other and to students are frayed. As Katarzyna Kaczmarek and Corinne Lennox point out in their chapter for this collection, for example, the move to online learning that has been precipitated in part by the pandemic, while offering opportunities for students, also increases the risks of digitalized surveillance and authoritarian reach.²⁸

TO DEFINE OR NOT TO DEFINE?

The book's span as an edited collection is too broad to offer a single definition of academic freedom, and we as editors were wary of imposing a one-size-fits-all definition (in the best tradition of academic freedom!), lest this preempts unorthodox understandings of what the term entails. Starting from a definition seemed less useful than arriving at elements of one tentatively and over the entire arc of the book. Our readers will be the judges of the extent to which our various contributors ultimately converge or diverge in how they interpret academic freedom. But our endeavor is certainly part of a collective effort to refine an understanding of academic freedom as, broadly, the right of academics to pursue knowledge free of outside interference and the many permutations around that theme as they emerge from actual defenses of the principle when it is perceived as threatened or challenged. This is not exclusive of thinking about how academic freedom can be made to incorporate other values and academic pursuits, nor does it exclude wariness with some of the uses or intonations of academic freedom as it is actually practiced.

27 Lyons, "Mining and Fossil-Fuel Entanglements with the University in an Era of Climate Change: Impacts for Academic Freedom and Climate (In)action," this volume.

28 Kaczmarek and Lennox, "Academic Freedom in Online Learning," this volume.

The basic foundation of academic freedom has long been that the pursuit of knowledge is best guaranteed within universities as part of an unhindered exercise in which even outrageous or scandalous views can be aired. This includes the freedom to both engage in research and teach free of interference. Academic freedom has sometimes been extended to extracurricular activities as well since it would otherwise be quite easy to sanction academics for their activities outside of university. Evidently, academic freedom has a cost, including occasionally sustaining research or pronouncements that, despite the strictures of tenure, turn out (but often with the benefit of hindsight) to have been wrongheaded or problematic.

Nonetheless, the suggestion that the definition of academic freedom is axiomatic and uncontested should be resisted. Academic freedom presents the paradox of being broadly protected and central to academic life, yet to be constantly confronted with not only threats but also actual challenges to its definition. It will not always be clear, moreover, that academic freedom is being violated given the roundabout ways in which various actors seek to constrain it. Many attacks on academic freedom will pass as efforts to uphold it. Vague accusations, for example, that universities do not “represent” society or have become politically oriented can be used to manipulate their composition based on criteria other than academic merit.

Academic freedom can be invoked in coded ways and at counterpurpose to justify greater control of universities; it can sometimes appear as little more than a reflex invocation disconnected from its origin; and it suffers from ambiguities long associated with the notion of freedom. It is discussed by various constituencies in ways that are sometimes ill-thought-out and create false dichotomies. The solicitousness of groups purporting to be preoccupied with academic freedom when they are mostly concerned with pushing a particular political agenda, one often inimical to the goals of the university unless it agrees with their politics, should be taken with wariness.²⁹ At the same time, criticism of how issues of academic freedom are treated on campuses cannot be rejected outright simply because it comes from persons whose political views one disagrees with.

29 Joan Wallach Scott, *Knowledge, Power, and Academic Freedom* (New York: Columbia University Press, 2019).

The attack from the left on decolonial or antiracist grounds has also proved difficult to respond to, perhaps because it claims some of the very liberal values on which academic freedom itself has been based, even as it reframes them powerfully. For some, academic freedom is a privilege that allows academics to wield political bully pulpits at best, or say things that are false or hurtful at worst, a sort of license for the benefit of a cuddled elite. The standard answer is that academic freedom can occasionally be used in this way, but it is important to note that it also comes with constraints, notably those imposed by the onerous requirements of publication, obtaining research funding, or promotion. Academic freedom is not a license to engage in abusive or reprehensible behavior, and it does not free those to whom it applies from civility and the demands of moral behavior. What academic freedom is is an insistence that the pursuit of knowledge in universities should be governed by strictly academic criteria and that this will ultimately be for the greater good.

One concern is that this is a case of too little, too late. The classic defense of academic freedom has been to double down on its liberal tenets.³⁰ Still questions have long arisen about academic freedom being abused or providing shelter for discriminatory, inflammatory, or hateful views. Whether it is Holocaust denial or blatantly racist,³¹ antisemitic,³² or anti-Palestinian³³ views, especially when professed extra muros, the concern may be that academic freedom provides cover for views that are unfathomable. This will be especially the case when the normal gatekeeping of academia seems to have malfunctioned and scholars manage to air views in ways that fall significantly below the standards of serious scholarship.³⁴ As Tamara Thermitus puts it in her chapter in this collection, it is sometimes difficult to disentangle

30 See, e.g., Jonathan Rauch, *Kindly Inquisitors: The New Attacks on Free Thought* (Chicago: University of Chicago Press, 2013).

31 Michael Bérubé and Jennifer Ruth, *It's Not Free Speech: Race, Democracy, and the Future of Academic Freedom* (Baltimore: Johns Hopkins University Press, 2022).

32 Cary Nelson, *Hate Speech and Academic Freedom: The Antisemitic Assault on Basic Principles* (Boston: Academic Studies Press, 2024).

33 Malaka Shwaikh and Rebecca Ruth Gould, "The Palestine Exception to Academic Freedom: Intertwined Stories from the Frontlines of UK-Based Palestine Activism," *Biography* 42 (2019): 752–773.

34 Kristian Skrede Gleditsch, "Houston, We Have a Problem: Enhancing Academic Freedom and Transparency in Publishing through Post-Publication Debate," *Political Studies Review* 19 (2021): 428–434.

gle invocations of academic freedom in the public debate from a strong sense of “white” privilege.³⁵

Even there, there will be those who argue that freedom should prevail given the sheer difficulties in a liberal society of drawing the line between use and abuse and the relative exceptionality of the latter.³⁶ Moreover, there will be concerns that too often restrictions to academic freedom have affected not only those who arguably abused it but also minority opinions scorned by the powers that be.³⁷ Finally, the risk is that one will invite unwanted meddling from the authorities or private actors keen on denouncing or remodeling academic standards for their own agendas of reining in academia’s freedom.³⁸ One of the questions in this context is, beyond broad debates about academic freedom, the need to parse out carefully who gets to invoke it and with what success.³⁹

Still, as several contributors point out, the debate in practice need never be as dire or clichéd as opposing “academic freedom” to diversity. Sophie Bisping suggests, for example, that academic freedom concerns from academics and demands for social justice from the student body (although, no doubt, both can share the concerns of the other) can be reconciled and should not be simply pitted against each other.⁴⁰ In very much the same spirit, Angela Campbell invites us to think less in terms of irreducible rights and more in terms of “relationships” that are affected by actual incidents on campus.⁴¹

35 Thermitus, “Freedom for All: Academic Freedom in a Pluralistic Society,” this volume.

36 Stanley Fish, “Holocaust Denial and Academic Freedom,” *Valparaiso University Law Review* 35 (2000–2001): 499–524.

37 Matthew Abraham, “The Question of Palestine and the Subversion of Academic Freedom: Depaul’s Denial of Tenure to Norman G. Finkelstein,” *Arab Studies Quarterly* 33 (2011): 179–203.

38 Hugh Willmott, “Commercialising Higher Education in the UK: The State, Industry and Peer Review,” *Studies in Higher Education* 28 (2003): 129–41; Caitlin Cassidy, “Ministers Will No Longer Approve Australian Research Council Grants under Bid to Stop ‘Political Interference,’” *The Guardian*, November 29, 2023, www.theguardian.com/australia-news/2023/nov/29/political-interference-australian-research-council-grants-stopped.

39 Johnny Eric Williams, “The Academic Freedom Double Standard: ‘Freedom’ for Courtiers, Suppression for Critical Scholars,” *Journal of Academic Freedom* 9 (2018): 1–10.

40 Bisping, “Academic Freedom and Social Justice in Quebec,” this volume.

41 Campbell, “The Simultaneous, Crucial Pursuit of Academic Freedom and Equity, Diversity, and Inclusion through a Relational Approach,” this volume.

UNIVERSITIES AND THEIR ENVIRONMENT

One approach might be that whether academic freedom is protected or not depends largely on whether a university operates in a liberal system. The claim is that liberal societies may better rise to the challenge of protecting universities from illiberal reach, although even there, there is considerable room for improvement. There is certainly some truth to the empirical claim of a correlation between liberalism, both at home and globally, and the ability of academic freedom to thrive. This is not altogether surprising given the close proximity of the ethos of academic freedom, democracy, and human rights.⁴²

However, it also needs to be pointed out that threats to academic freedom in our era largely transcend the liberal-authoritarian political divide. Although the tactics may differ, the registers also borrow from each other, and authoritarian tendencies emerge in so-called liberal states, even as liberal tendencies are visible in authoritarian ones. As Vincent Wong shows in his contribution to this collection, there is by now “a transnational blueprint for academic unfreedom” that goes from US anticritical race theory campaigns, to suppression of scholarship critical of China’s repression of the Xinjiang Uyghur, to Israeli suppression of research on the occupation of Palestinian territories.⁴³ The reassertion of liberal orthodoxy, in this context, as several contributors to this collection point out, does not do justice to liberalism’s own occluded potential for oppression⁴⁴ or the challenge of understanding actual, situated challenges to academic freedom.⁴⁵

Another connection that has increasingly been made in this context is between the protection of academic freedom and human rights. It also stands to reason that support for academic freedom is broadly conducive to human rights and vice versa. Independent universities can act as vital checks against a culture of government meddling more generally. They help nurture challenging and even unorthodox ideas that are part of a healthy democratic

42 Julia C. Lerch, David John Frank, and Evan Schofer, “The Social Foundations of Academic Freedom: Heterogeneous Institutions in World Society, 1960 to 2022,” *American Sociological Review* 89 (2024): 88–125.

43 Wong, “Nationalist Backlash to Anti-racist Education: A Transnational Blueprint for Academic Unfreedom,” this volume.

44 Thermitus, “Freedom for All: Academic Freedom in a Pluralistic Society,” this volume.

45 Wong, “Nationalist Backlash to Anti-racist Education.”

culture. This has driven an insistence that academic freedom, like human rights, is a universal value, even though it stands to be implemented differently in different contexts.⁴⁶ Certainly, the protection of academic freedom in practice often needs and relies on, even as it is distinct from, broader rights protections embedded in liberal societies such as the freedoms of opinion, expression, and association. The US Supreme Court, for example, has occasionally stepped in, developing its own form of First Amendment–infused academic freedom jurisprudence.⁴⁷ Sejal Parmar makes the point in this collection that academic freedom has increasingly appeared in international human rights instruments, even as its status there is sometimes a little uncertain.⁴⁸

At the same time, as Vincent Wong points out also in this collection, the language of liberalism can at times obscure rather than shed light on the multifaceted reality of encroachments on academic freedom.⁴⁹ Equating academic freedom and human rights claims to the freedom of expression tends to limit and trivialize the specificity of the former. It can lead to an over-emphasis on a few incidents of speakers being denied the ability to speak on campuses at the expense of attention to the constant threat of erosion of academic standards by governmental or corporate interference, or by scholars themselves.⁵⁰ As Angela Campbell points out, pitting the rights claims

46 William G. Tierney and Michael Lanford, “The Question of Academic Freedom: Universal Right or Relative Term,” *Frontiers of Education in China* 9 (2014): 4–23.

47 William W. Van Alstyne, “Academic Freedom and the First Amendment in the Supreme Court of the United States: An Unhurried Historical Review,” *Law & Contemporary Problems* 53 (1990): 79; Lawrence Rosenthal, “Does the First Amendment Protect Academic Freedom?” *Journal of College and University Law* 46 (2021): 223; David M. Rabban, “A Functional Analysis of Individual and Institutional Academic Freedom under the First Amendment,” *Law & Contemporary Problems* 53 (1990): 227; Julie H. Margetta, “Taking Academic Freedom Back to the Future: Refining the Special Concern of the First Amendment,” *Loyola Journal of Public International Law* 7 (2005): 1; Neal H. Hutchens and Jeffrey C. Sun, “The Tenuous Legal Status of First Amendment Protection for Individual Academic Freedom,” *Journal of the Professors* 7 (2013): 1–25; Richard H. Hiers, “Academic Freedom in Public Colleges and Universities: O Say, Does That Star-Spangled First Amendment Banner yet Wave,” *Wayne Law Review* 40 (1993): 1; Judith Areen, “Government as Educator: A New Understanding of First Amendment Protection of Academic Freedom and Governance,” *Georgetown Law Journal* 97 (2008): 945; Vikram David Amar and Alan E. Brownstein, “A Close-Up, Modern Look at First Amendment Academic Freedom Rights of Public College Students and Faculty,” *Minnesota Law Review* 101 (2016): 1943; Tierney and Lanford, “The Question of Academic Freedom.”

48 Parmar, “Beyond the Periphery? Academic Freedom as a Matter of Human Rights,” this volume.

49 Wong, “Nationalist Backlash to Anti-racist Education.”

50 Farhana Sultana, “The False Equivalence of Academic Freedom and Free Speech: Defending Academic Integrity in the Age of White Supremacy, Colonial Nostalgia, and Anti-intellectualism,” *ACME: An In-*

of academics over the rights claims of others in terms of nondiscrimination can quickly degenerate into a fruitless exercise of recrimination.⁵¹ This suggests that a more modest, pragmatic, and even instrumental understanding of academic freedom may ultimately serve the concept better than insistence on some grand human rights narrative.⁵²

Instead of seeing academic freedom as an individual right, then, it may be more helpful to understand it as a right that can be used or reinterpreted by members belonging to certain groups or communities and that pertains in fact to those groups and communities as such. Like diplomatic immunities, for example, academic freedom is a privilege meant not for the personal benefit of scholars (even though, *de facto*, they may stand to benefit in some cases from being entitled to it) but for the benefit of scholarly inquiry, which is not the same thing. Indeed, many formulations of academic freedom specifically emphasize the need for research to be conducted for the common good, which means not for the individual good of researchers but for donors or outside groups. This can also allow for cross-constituency alliances united by a shared interest in the promotion of academic freedom, even as they agree about little else: left and right, professors and students, public and private sector, and so on.

ACADEMIC FREEDOM AS A CLAIM TO AUTONOMOUS GOVERNANCE

At its heart, the claim of academic freedom is a claim of independence of the academic milieu, one foregrounding the importance of its self-regulation. Contra Soviet intimations that science should serve socialist revolution and even five-year plans,⁵³ or Conservative hostility in the United

ternational Journal for Critical Geographies 17 (2018): 228–257.

51 Campbell, “The Simultaneous, Crucial Pursuit of Academic Freedom and Equity, Diversity, and Inclusion through a Relational Approach.”

52 See, e.g., Stanley Fish, *Versions of Academic Freedom: From Professionalism to Revolution* (Chicago: University of Chicago Press, 2014).

53 *Academic Freedom under the Soviet Regime: A Symposium of Refugee Scholars and Scientists Who Have Escaped from the USSR, on the Subject, “Academic Freedom in the Soviet Union as a Threat to the Theory and Practice of Bolshevik Doctrine”; Conference at Carnegie Endowment for International Peace Building United Nations Plaza, New York, April 3–4, 1954* (Institute for the Study of the History and Culture of the USSR, 1954); Jiří Pelikán, *Civil and Academic Freedom in the USSR and Eastern Europe* (Nottingham: Spokesman Books, 1975).

States to universities becoming unmoored from the priorities of donors⁵⁴ all the way to McCarthyism,⁵⁵ it suggests that there is an institutional but also societal interest in universities being managed by themselves. As Jacob Levy points out in his chapter for this collection, academic freedom is better understood as a form of “associational freedom,” almost guild-like, quite distinct from the freedom of speech and regulated by its own internal criteria of “excellence.”⁵⁶ Sijbolt Noorda, one of the *éminences grises* of the Magna Carta Universitatum, also emphasizes the close links between academic freedom and university autonomy in his own chapter.⁵⁷

One great vulnerability in this context, no doubt, is the fact that universities need to be independent of some of the very constituencies (the state, donors) on which they are de facto dependent. Maintaining that independence suggests that protecting academic freedom is as much the work of making sure that it is not violated in individual cases, as it is the task of thinking in terms of broad institutional determinants. The rise of professors’ associations (perhaps most notably the American Association of University Professors, AAUP), for example, is one manifestation of how academic freedom has been fought for and protected by its most direct beneficiaries. The crucial role of academics in denouncing attacks on academic freedom, even when they target fellow scholars they fundamentally disagree with, bears underlining.⁵⁸ The rise of indicators to measure academic freedom by evaluating universities’ independence through their regulatory environment may also go some way toward elucidating patterns of decline or corrosion.⁵⁹

54 William F. Buckley, *God and Man at Yale: The Superstitions of “Academic Freedom”* (New York: Simon and Schuster, 2012).

55 Andrew Feffer, *Bad Faith: Teachers, Liberalism, and the Origins of McCarthyism* (New York: Fordham University Press, 2019); David R. Holmes, *Stalking the Academic Communist: Intellectual Freedom and the Firing of Alex Novikoff* (Burlington: University of Vermont, 1989); Charles Howard McCormick, *This Nest of Vipers: McCarthyism and Higher Education in the Mundel Affair, 1951–52* (Champaign: University of Illinois Press, 1989); Ellen Schrecker, *No Ivory Tower: McCarthyism and the Universities* (Oxford: Oxford University Press, 1986); Jimmie Dee Kille, *Academic Freedom Imperiled: The McCarthy Era at the University of Nevada* (Las Vegas: University of Nevada Press, 2004).

56 Levy, “Academic Freedom as Freedom of Complex Association,” this volume.

57 Noorda, “Academic Freedom and University Autonomy: An Agenda for Professional Public Engagement,” this volume.

58 Robyn Bartel, “Academic Freedom and an Invitation to Promote Its Advancement,” *Geographical Research* 57 (2019): 359–367.

59 Terence Karran, Klaus Beiter, and Kwadwo Appiagyei-Atua, “Measuring Academic Freedom in Europe: A Criterion Referenced Approach,” *Policy Reviews in Higher Education* 1 (2017): 209–239; Janika Span-

Initiatives such as Scholars at Risk programs can also, in addition to providing a much-needed escape route for imperiled academics, manifest a more profound sort of transnational academic solidarity.⁶⁰

Questions such as tenure or discipline can become flashpoints in the ongoing debate about scholarly freedom, as has the right division of labor between university administrators and collegial governance by faculty members. By the same token, the need to diversify universities in an age when their indebtedness to problematic patterns of capital accumulation, including through slavery or colonialism, has become increasingly clear may call into question the traditional criteria of what counts as scholarly achievement. “Merit” or “excellence” can be just as coded as the emphasis on diversity, equity, and inclusion (DEI initiatives, as they are known). What seems less helpful, as Jean-François Gaudreault-DesBiens points out in his chapter, is extensive reporting obligations imposed on universities to ensure that they protect academic freedom.⁶¹

One revealing challenge to university governance of academic freedom is the tendency to ask institutions of higher learning that they “take sides” in a range of social or geopolitical issues that they are ill-suited to take sides on, on which their members may have a range of positions, and which it was never the university’s vocation to decide on qua institution. The temptation for social actors, especially those connected to universities, to use the legitimacy of universities to make political statements is a strong one especially given the tendency to frame positions in hypermoral terms and the way in which universities and their communities may be impacted by outside events, making neutrality very challenging.⁶² But it is also likely to lead to backlash, possibly at the cost of making parts of the student and scholarly bodies with different views feel, in turn, unwelcome.⁶³ Invariably, it seems to

nagel and Katrin Kinzelbach, “The Academic Freedom Index and Its Indicators: Introduction to New Global Time-Series V-Dem Data,” *Quality & Quantity* 57 (October 2023): 3969–3989.

60 Kudus Oluwatoyin Adebayo, “The State of Academic (Un)freedom and Scholar Rescue Programmes: A Contemporary and Critical Overview,” *Third World Quarterly* 43 (2022): 1817–1836.

61 Gaudreault-DesBiens, “The Cosmetology of Academic Freedom.”

62 Adrienne Lu, “Should College Administrators Take Political Positions?” *Chronicle of Higher Education*, December 2, 2022, www.chronicle.com/article/the-apolitical-university.

63 The debate was particularly apparent in the wake of Brexit, Black Lives Matter, or the war between Israel and Hamas following the attacks of October 7, with a majority of commentators expressing a guarded call for neutrality. See Stephen M. Walt, “Universities Shouldn’t Ever Take Sides in a War,” *Foreign Policy*, February 6, 2024, <https://foreignpolicy.com/2023/10/31/universities-israel-palestine-hamas-gaza->

have led universities down a path of constantly readjusting their communication and satisfying no one.

Ultimately, it is academics themselves who are on the front line of defending academic freedom (again, not for their own sake but for what academic freedom permits). One worrying trend in that context is that the erosion of academic freedom is also a result of the tendency of some academics to back off from defending it when it is threatened.⁶⁴ Increasingly, the task involves properly defending academic freedom to constituencies beyond and even within universities that may not be that familiar with its origins and rationale. Such work is crucial to dispel any feeling that academic freedom is a form of artificial privilege and to convince various groups that they too stand to benefit from it in the long term, even evidently as it may lead to certain views being aired that they disagree with strongly.

CONCLUSION: PROMOTING RATHER THAN PROTECTING?

Academic freedom is quite dependent on institutional and even judicial protections that may not always be readily available. Both the law and human rights guarantees have a role to play in ensuring that it is not gradually marginalized. But it is also worth noting that its integrity is uniquely dependent on universities themselves, including their higher administration and governance, which in some cases may be coopted or influenced by the powers that be, creating a particularly delicate interface between the community of scholars and its broader social environment (this is particularly the

war-take-sides/; Robert P. George, "Universities Shouldn't Be Ideological Churches," *The Atlantic*, June 15, 2023, www.theatlantic.com/ideas/archive/2023/06/university-statements-political-issues-abortion-princeton/674390/; Matthew Reisz, "Be Honest and Take Sides on Big Issues, Universities Told," *Times Higher Education*, March 18, 2021, www.timeshighereducation.com/news/be-honest-and-take-sides-big-issues-universities-told; Daniel Diermeier, "Principled Neutrality," *Inside Higher Ed*, May 4, 2022, www.insidehighered.com/views/2022/05/05/academic-leaders-shouldnt-take-political-stances-opinion.

64 Bill Durodie, "Securitising Education to Prevent Terrorism or Losing Direction?" *British Journal of Educational Studies* 64 (2016): 21–35; Stuart Waiton, "Academic Freedom and Freedom of Speech: The Assault of Vulnerability," in *Teaching and Learning Practices for Academic Freedom*, vol. 34, ed. Enakshi Sengupta and Patrick Blessinger, *Innovations in Higher Education Teaching and Learning* (Bradford: Emerald, 2020), 71–92.

case when those politically responsible for higher education turn out to be its political enemies).⁶⁵

This suggests the importance of nurturing rather than just protecting academic freedom, a constant drive to create conditions that are hospitable to its flourishing rather than a defensive violations-based focus. In that respect, the genre of defending academic freedom has expanded notably in the past decades, including a number of *sui generis* global and bottom-up efforts in the best tradition of academic self-regulation, such as the Magna Carta Universitatum (signed by more than 1,000 universities around the world). In addition, a range of international organizations, such as UNESCO or the Council of Europe, have become more active in promoting and upholding academic freedom. These efforts point to the collective nature of protecting academic freedom in the sense that attacks on it in some contexts inevitably reverberate across universities because they attack the very idea of independent academic institutions.

The challenge seems to be, at any rate, to defend anew and in the evolving terms of society's debates, the justification of academic freedom for generations and constituencies that bring a new range of concerns to the table.⁶⁶ It is also the challenge of developing positions that resist the test of time and, crucially, that one is ready to live with even as they are associated with a range of often opposing political views.⁶⁷ In that respect, mere nostalgia for an earlier, more genteel era of supposed collegial liberal exchange is a distraction: if ever that era existed (and there is reason to think that it did not or only as a result of the enduring power of particular elites), it is long gone. Academic freedom may be vulnerable to evolutions in and of society, but to want to address the challenges it poses merely by changing society is clearly a

65 Michael Ian Cohen, "Education Populism? A Corpus-Driven Analysis of Betsy Devos's Education Policy Discourse," *Education Policy Analysis Archives* 29 (2021): n16; Joanne Barkan, "The Miseducation of Betsy Devos," *Dissent* 64 (2017): 141–146.

66 See, e.g., for subtle treatment of both sides of this argument, Vinay Harpalani, "'Safe Spaces' and the Educational Benefits of Diversity," *Duke Journal of Constitutional Law & Public Policy* 13 (2018): 117–166; Michele Moody-Adams, "Is There a 'Safe Space' for Academic Freedom?" in *Academic Freedom*, ed. Jennifer Lackey (Oxford: Oxford University Press, 2018), 36. On safe space vs. academic freedom as a false binary, see S. Ha DiMuzio, "Safe Space vs. Free Speech: Unpacking a Higher Education Curriculum Controversy," *Journal of Curriculum and Pedagogy* 20 (2023): 368–392.

67 Lexi Lonas, "'No Credibility': Critics Cry Foul as Colleges Press for Free Speech amid Israel-Hamas Conflict," *The Hill*, October 20, 2023, <https://thehill.com/homenews/education/4265290-no-credibility-critics-foul-colleges-free-speech-israel-hamas-conflict/>.

distraction in a context in which the social reality and environment of universities has fundamentally changed.

Perhaps what has struck us the most in pursuing this project is the extent to which academic freedom is ill-protected, in the end, by stereotypical oppositions between, for example, liberal and authoritarian cultures. Of course, these capture something, but today's debates in academia are far more complex and require far more creativity than, for example, a mere defense of either untrammelled free speech or a singular focus on equity and diversity. Rather, many of our contributors are interested in thinking through not only new ways of reconciling opposites but also ways of doing so that are informed by local circumstances, attention to history and place, as well as the thickness of institutional projects. This suggests a healthy space for pluralism in how we go about addressing these no doubt pressing problems.